

STATE OF CALIFORNIA
WORKFORCE INVESTMENT ACT (WIA)
WAIVER REQUEST

Use of Rapid Response Funding for Incumbent Worker Training

The California Workforce Investment Board (State Board) and the Employment Development Department (EDD), as the administrative entity of the Workforce Investment Act (WIA) in California, submit this request for a waiver of the restrictions on the use of both regular and American Recovery and Reinvestment Act (ARRA) Rapid Response funding for Incumbent Worker Training at the Local Workforce Investment Area (Local Area) level. (A definition of incumbent worker is under development. The State Board will approve one before this waiver becomes operational.) This waiver would allow Local Workforce Investment Boards (Local Boards), at their discretion, to use Rapid Response funding of Local Area regular and ARRA funds for adults and dislocated workers [WIA Section 133(b)] to provide statewide employment and training activities identified at WIA Section 134 and 20 CFR 667.130, specifically to carry out Incumbent Worker Training programs for layoff aversion at the Local Area level. This waiver will apply to Program Year 2009 and subsequent years.

In keeping with the guidelines set forth at WIA Section 189(i)(4)(b) and 20 CFR Part 661.420(c) please accept the following as a request for a waiver.

A. Statutory or Regulatory Requirements to be Waived

The State of California requests a waiver from the provisions of WIA Sections 134 (Use of Funds for Employment and Training Activities), as well as a waiver from the provisions of WIA regulation at 20 CFR 665.300 regarding the use of WIA Rapid Response funds.

B. Goals of the Waiver and Expected Programmatic Outcomes if Waiver is Granted

California has the largest labor market in the United States. In 2008, nonfarm payrolls totaled 14,994,100 jobs, comprising 10.9 percent of the nation's nonfarm jobs. In addition, California had 390,900 jobs in the farm sector for a total of 15,385,000 jobs in 2008. In the second quarter of 2009, the California economy was gripped by a severe recession characterized by deepening job losses and rapidly rising unemployment. California's economic problems originated in the housing and financial sectors, spread into the consumer economy, and subsequently into the rest of the economy. Unemployment is highest in low skill occupations. Mass layoff events have increased. Job losses are expected to continue into 2010.

Investing public resources to support technical and/or soft skills training of incumbent workers is a practical layoff aversion strategy for the state. It retains good jobs in California's targeted sectors. These identified (targeted) industry sectors play a key role in the state's economic success. The State Workforce Investment Board (State Board) in collaboration with the Economy Strategy Panel continues to invest in the development and implementation of the Regional Economies Project Industry Clusters of Opportunity Methodology (ICM). This economic analysis identifies on a regional basis, those industries that are emerging and those that are critical to the economic competitiveness of California's economy, which may require intervention to ensure viability for the long term. To further this effort, the State Board has awarded grants to assist existing regional collaboratives, or the formation of new regional partnerships to use the ICM to establish sector strategies, targeting those industries and its employees, identified through the regional data analysis.

The application of this ICM framework, assures that funds used for incumbent worker training, benefit the employee and employer, as well as improve the region's economic vitality. The continued use of other existing methods such as WARN Notices will also complement the use of ICM. This waiver also provides the Local Board with greater flexibility in the use of WIA Rapid Response funds to participate in the regional collaborative and leverage the full capability of the system's resources and not be constrained by the silos typically associated with WIA funding streams.

Additionally, the plan for incumbent worker training, as part of California's layoff aversion strategy, will target industries and economic sectors, which offer high skill and high wage jobs. One of these sectors is the green economic sector. California has a long-standing history of leading implementation of environmental policy. Most recently, the enactment of the California Global Warming Solutions Act (AB32) and the Alternative and Renewable Fuel and Vehicle Technology Program (AB118) have demonstrated that California is becoming a national and global leader in combining advances in public policy and private sector innovation to enhance both environmental quality and economic growth. In addition, the Governor signed the Green Collar Jobs Act, establishing the Green Collar Jobs Council (GCJC) under the State Workforce Investment Board and directing the development of a statewide sector strategy targeting the emerging Green economy.

The types of training that will be provided include occupational skills training designed to meet the special requirements of a business and is conducted with employer commitment to continue to retain all trained individuals upon successful completion of the training, educational training, training in strategies to improve efficiency of business operations, and computer software training. Training is expected to provide skills, which result in the employer being able to adjust to a changing economic climate by providing the jobs necessary to do so, thus averting layoffs. Training is also expected to provide skills for employees, which will permit advancement to higher skilled, higher paying jobs and job retention.

The IWT layoff aversion strategy will continue to be coordinated with other existing services accessible through One Stop Career Centers throughout California and will help to ensure to the extent possible a maximum return of investment as the 49 Local Areas that comprise California's workforce system continue to face a wide range of distinct economic challenges due largely to the national economic downturn which in California, like many other states has resulted in excessively high unemployment.

Criteria will be established to identify appropriate uses of incumbent worker training. Employers will be selected where economic indicators demonstrate a need for incumbent worker training as part of a layoff aversion strategy. Such indicators may include announced layoffs or reduced work schedules. An analysis will be performed to ensure the training provides the employees with the skills necessary to enable the employer to maintain operations and avert layoffs, or even closure. Employers will be required to demonstrate a commitment to retain the employee, to pay the employee a higher wage or otherwise provide a tangible benefit to the employee.

California's workforce system is comprised of 49 Local Workforce Investment Areas which are independently locally operated by a Local Workforce Investment Board. As such, the local areas have a large degree of flexibility to develop programs and deliver services that best address the unique needs of the local labor market. Because of their connection with the employer community, staff at the local level is in the best position to identify opportunities for utilizing the IWT service strategy and for developing appropriate criteria for implementing the IWT layoff aversion strategy together with Rapid Response and other economic development strategies.

C. State or Local Statutory or Regulatory Barriers

There is no State or local statutory or regulatory barriers to implementing the proposed waiver.

D. Description of Individuals Impacted by the Waiver

This waiver plan will positively affect businesses by reducing the risk of layoff or closure because workers have not kept current with new skills and technologies. It also has the potential, as businesses expand due to the enhanced skills of their current workers, to stimulate new, lower-skill positions and to create openings in positions vacated by incumbent workers who receive skills upgrade training. The training provided to individuals will make them more valuable to current and future employers. This waiver plan increases the role Local Boards as workforce intermediary and the role of business in the workforce development system. It also increases local flexibility to respond to the business community, in keeping with the goals of the WIA.

E. Opportunity for Public Comment and the Process for Monitoring Implementation of the Waiver

This request was developed as a result of concerns expressed by Local Boards. The potential impediments and benefits of being granted this waiver were discussed with local partners to gain input on those areas. Due to the level of expediency required to request this waiver, it was posted on the State Board's website for seven days seeking public comments. No comments were received in response to this request.

The EDD, as the administrative entity of the WIA in California, will monitor all reimbursed on-the-job-training. The State's current monitoring policy/procedures will be modified as necessary ensure compliance with the intent of the waiver.